



Legislative Bulletin.....November 4, 2003

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Summary of the 19 Bills Under Consideration Today

Total Number of New Government Programs: 4

Total Cost of Discretionary Authorizations: Approximately \$650 million over 5 years

Discretionary Spending Offset by New Fees: \$46 million over five years

Total Amount of Revenue Reductions: \$0

Total Cost of Mandatory Spending: \$0

Total New Private Sector Mandates: 1

Total New State & Local Government Mandates: 1

H.R. 3166 — To designate the facility of the United States Postal Service located at 57 Old Tappan Road in Tappan, New York, as the “John G. Dow Post Office Building” (Engel)

Order of Business: The bill is scheduled for consideration on Tuesday, November 4, 2003, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3166 designates the U.S. Post Office located at 57 Old Tappan Road in Tappan, New York, as the “John G. Dow Post Office Building.”

Additional Background: John G. Dow was a former New York Congressman who was born in 1905 and died March 11, 2003. He served as a Democrat in the U.S. House of Representatives in non-consecutive terms from 1965-1969 and from 1971-1973. For additional information see: <http://www.herald.nj.com/stories/2003/03/16/pWorld209.raw.html>

Committee Action: H.R. 3166 was introduced on September 24, 2003, and referred to the House Committee on Government Reform, from where it was reported by unanimous consent on October 8.

Cost to Taxpayers: The only costs associated with a post office renaming are those for sign and map changes, none of which significantly affect the federal budget.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: Though no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to “establish Post Offices and post Roads.”

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H.R. 3029 — To designate the facility of the United States Postal Service located at 255 North Main Street in Jonesboro, Georgia, as the “S. Truett Cathy Post Office Building” (*Scott of Georgia*)

Order of Business: The bill is scheduled for consideration on Tuesday, November 4, 2003 under a motion to suspend the rules and pass the bill.

Summary: H.R. 3029 designates the U.S. Post Office located at 255 North Main Street in Jonesboro, Georgia as the “S. Truett Cathy Post Office Building.”

Additional Background: Samuel Truett Cathy is the founder, Chairman, and CEO of Chick-fil-A restaurant. The sixth of seven children, he was born in Eaton, Georgia, in 1921, first met his wife Jeannette when he was 8 years old and in 1967, opened the first Chick-fil-A restaurant in Atlanta, a chain that now has nearly 1080 restaurants and more than 40,000 restaurant employees. Mr. Cathy founded the WinShape Centre Foundation, which includes children’s summer camps, foster care facilities for more than 115 children, and a college co-op scholarship program.

According to the bill sponsor “...Truett Cathy [is] a devoutly religious man who has built his life and business based on hard work, humanity and biblical principles.” Chick-fil-A is distinct in the fast-food industry by being closed on Sundays and by embracing an official statement of corporate purpose that says it exists “to glorify God by being a faithful steward of all that is entrusted to us and to have a positive influence on all who come in contact with Chick-fil-A.”

Committee Action: H.R. 3029 was introduced on September 5, 2003, and referred to the House Committee on Government Reform. The Committee did not consider the resolution.

Cost to Taxpayers: The only costs associated with a post office renaming are those for sign and map changes, none of which significantly affect the federal budget.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: Though no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to “establish Post Offices and post Roads.”

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H.R. 2438 — To designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the “Major Henry A. Commiskey, Sr. Post Office Building” (Taylor of Mississippi)

Order of Business: The bill is scheduled for consideration on Tuesday, November 4, 2003, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2438 designates the U.S. Post Office located at 115 West Pine Street in Hattiesburg, Mississippi, as the “Major Henry A. Commiskey, Sr. Post Office Building.”

Additional Background: Major Henry Alfred Commiskey, Jr., was the first Marine to be awarded the Medal of Honor for extraordinary heroism in the Korean conflict. Born January 10, 1927, in Hattiesburg, Mississippi, he joined the Marine Corps two days after his 17th birthday. On September 20, 1950, in Korea, “Armed only with a pistol, he jumped into a hostile machine gun emplacement occupied by 5 enemy troops and quickly disposed of 4 of the soldiers with his automatic pistol. Grappling with the fifth, 1st Lt. Commiskey knocked him to the ground and held him until he could obtain a weapon from another member of his platoon and killed the last of the enemy guncrew. Continuing his bold assault, he moved to the next emplacement, killed 2 more of the enemy and then led his platoon toward the rear nose of the hill to rout the remainder of the hostile troops and destroy them as they fled from their positions. His valiant leadership and courageous fighting spirit served to inspire the men of his company to heroic endeavor in seizing the objective and reflect the highest credit upon 1st Lt. Commiskey and the U.S. Naval Service.” He died on August 15, 1971. (Sources:

http://combatleadership.com/Heroes_Results.asp?MedalID=441;

http://hqinet001.hqmc.usmc.mil/HD/Historical/Whos_Who/Commiskey_HA.htm)

Committee Action: H.R. 2438 was introduced on June 11, 2003, and referred to the House Committee on Government Reform. On July 10, the Committee reported the bill to the full House by voice vote.

Cost to Taxpayers: The only costs associated with a post office renaming are those for sign and map changes, none of which significantly affect the federal budget.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: Though no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to “establish Post Offices and post Roads.”

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H.Con.Res. 262 — Expressing the sense of the Congress in support of the National Anthem “SingAmerica” project (Davis of Virginia)

Order of Business: The resolution is scheduled for consideration on Tuesday, November 4, 2003, under a motion to suspend the rules and pass the bill.

Summary: H.Con.Res. 262 has four findings regarding the Star Spangled Banner and a “SingAmerica” project to restore the original Star Spangled Banner flag and renew “national awareness of the patriotic musical traditions of the United States” and states that Congress:

“(1) commends the MENC: The National Association for Music Education, the Smithsonian Institution, the American Sportscasters Association, and all those involved in the National Anthem ‘SingAmerica’ project for their initiative to promote national awareness of the patriotic musical heritage of the United States; and
“(2) urges all Americans to assist, enjoy, and participate in the National Anthem ‘SingAmerica’ project.”

Committee Action: H.Con.Res. 262 was introduced on July 25, 2003, and referred to the House Committee on Government Reform. On September 12, the Committee reported the bill to the full House by unanimous consent.

Cost to Taxpayers: None.

Does the Bill Create New Federal Programs or Rules?: No.

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S. 313 —Animal Drug User Fee Act of 2003 (Senator Ensign)

Order of Business: The bill is scheduled for consideration on Tuesday, November 4, 2003, under a motion to suspend the rules and pass the bill.

Note: S. 313 is very similar to H.R. 1260, which passed the House by voice vote on October 1, 2003. To view the RSC Legislative Bulletin on H.R. 1260 see:
<http://www.house.gov/burton/RSC/LB10103.pdf>

Summary: S. 313 amends the Food, Drug, and Cosmetic Act (21 U.S.C. 379f) to authorize the assessment and collection of fees by the FDA relating to the review of new animal drugs. The fees would be retroactive from September 1, 2003, and would be assessed annually, until the fee system sunsets on October 1, 2008.

S. 313 sets the total fees that should be collected, to be adjusted to inflation (identical fees to the House-passed H.R. 1260)

- **For application and supplemental fees** at: \$1.25 million in FY04, \$2 million in FY05, \$2.5 million in FY06, 07, and 08.
- **For product fees** at \$1.25 million in FY04, \$2 million in FY05, \$2.5 million in FY06, 07, and 08.
- **For establishment fees** at \$1.25 million in FY04, \$2 million in FY05, \$2.5 million in FY06, 07, and 08.
- **For sponsor fees** at \$1.25 million in FY04, \$2 million in FY05, \$2.5 million in FY06, 07, and 08.

The Senate bill adds a new provision that will allow the Secretary to adjust the fees each fiscal year after FY04, “to reflect changes in review workload,” though **the bill specifically prohibits lowering the fees** below those outlined above. S. 313 also has a new provision allowing the Secretary to increase fees for FY08 (the final year the program is authorized under the bill) to cover the first three months of FY09.

The Secretary is authorized to waive fees under certain conditions, including if the sponsor is a small business submitting its first animal drug application.

The bill includes requirements for a yearly performance report to Congress and a yearly fiscal report, beginning in FY2004 and sunseting 120 days after October 1, 2008.

Additional Information: According to the House Energy and Commerce Committee, the Prescription Drug User Fee Act of 1992, Public Law 102-571, required FDA to conduct a study to evaluate whether, and under what conditions, to impose user fees to supplement appropriated funds in order to improve the process of reviewing applications for new animal drugs under the Federal Food, Drug, and Cosmetic Act. The 1994 report to Congress noted that if Congress were to consider legislation authorizing the FDA to impose and collect user fees, approximately \$11 million would need to be collected annually.

Committee Action: S. 313 was introduced in the Senate on February 5, 2003 and passed by unanimous consent on June 3.

Cost to Taxpayers: Like the House-passed H.R. 1260, the Senate bill authorizes the FDA’s expenditure (of collected fees) of \$5 million for FY2004; \$8 million for FY2005; \$10 million for FY 2006; \$10 million for FY2007; and \$10 million for FY2008 for these new fees. Because the spending of new fees would lag behind their collection, CBO estimates that implementing S. 313 would reduce net outlays by \$1 million in 2004 and \$4 million over the 2004-2008 period, subject to appropriation authority. Also, the bill would authorize the appropriation of \$2-3 million over five years for administrative expenses at the FDA. The bill would impose private-sector mandates on manufacturers of new animal drugs, by requiring them to pay fees to the Food and Drug Administration, but the cost of the mandates would not exceed the \$117 million annual threshold specified in UMRA in any of the first five years that the mandates would be effective.

Does the Bill Create New Federal Programs or Rules?: Yes, the bill establishes a new fee system at the FDA for new animal drugs and requires, for five years, an annual performance report and an annual fiscal report to Congress.

Constitutional Authority: The Senate has no rule to require the citation of constitutional authority, though the Energy and Commerce Committee (in Report No. 108-287) found authority for this user fee program under Article I, Section 8, Clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

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H.Con.Res. 176—Supporting the goals and ideals of Financial Planning Week, recognizing the significant impact of sound financial planning on achieving life's goals, and honoring American families and the financial planning profession for their adherence and dedication to the financial planning process (Platts)

Order of Business: The resolution is scheduled to be considered on Tuesday, November 4th, under a motion to suspend the rules and pass the bill.

Summary: H.Con.Res. 176 would resolve that Congress:

- “supports the goals and ideals of ‘Financial Planning Week;’
- “recognizes the significant impact that sound financial planning can have on securing financial independence and achieving life's goals and dreams;
- “acknowledges and commends the millions of American families across the United States, as well as the financial planning profession, for their adherence and dedication to the financial planning process; and
- “encourages the American people to observe ‘Financial Planning Week’ with appropriate programs and activities.”

Additional Background: The Financial Planning Association designated **the week beginning October 6, 2003**, as “Financial Planning Week.” For more information, visit this website: <http://www.fpanet.org/>

According to GuideStar, the Financial Planning Association received no government funds in 2001, the latest year for which data are available.

Committee Action: On September 18, 2003, the Government Reform Committee marked up and reported the resolution to the full House by unanimous consent.

Cost to Taxpayers: The resolution would authorize no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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H.R. 3118—Orville Wright Federal Building and the Wilbur Wright Federal Building Designation Act (Hayes)

Order of Business: The bill is scheduled to be considered on Tuesday, November 4th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3118 would designate the federal building located at 800 Independence Avenue, SW, in Washington, DC, as the “Orville Wright Federal Building,” and the federal building located at 600 Independence Avenue, SW, in Washington, DC, as the “Wilbur Wright Federal Building.”

Additional Background: Wilbur Wright was born in 1867 in Millville, Indiana, while Orville Wright was born in 1871 in Dayton, Ohio, where the two men were raised. In 1903, in Kill Devil Hills, North Carolina, Orville and Wilbur Wright were the first men to pilot a powered, controlled, and sustained fixed wing aircraft. In February 1908, the Wright Brothers signed a contract with the United States Army to sell their invention.

The two buildings, currently used by the Federal Aviation Administration, are undesignated.

Committee Action: On September 18, 2003, the Subcommittee on Economic Development, Public Buildings and Emergency Management marked up and forwarded the bill to the full Transportation and Infrastructure Committee by voice vote. On October 1, 2003, the full Committee marked up and reported the bill to the full House by voice vote.

Cost to Taxpayers: The only costs associated with a federal building designation are those for sign and map changes, none of which significantly affect the federal budget (as confirmed by CBO).

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: The Transportation and Infrastructure Committee, in House Report 108-317, cites constitutional authority in Article I, Section 8, though does not cite a specific clause. Article IV, Section 3, Clause 2 grants Congress the power to “make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.”

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H.Res. 394—Recognizing the American Concrete Institute's 100-year contribution as the standards development organization of the concrete industry and for the safe and technologically current construction activity it has enabled, which contributes to the economic stability, quality of life, durability of infrastructure, and international competitiveness of the United States (Miller, Gary)

Order of Business: The resolution is scheduled to be considered on Tuesday, November 4th, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 394 would resolve that the House:

- “recognizes the American Concrete Institute--
 - (A) for 100 years of service to the people of the United States as the technical society for the concrete industry; and
 - (B) for the economic stability, quality of life, durability of infrastructure, and international competitiveness that the Institute has made possible to the United States; and
- “encourages and supports the designation of an appropriate day as ACI Centennial Day in recognition of 100 years of service by the American Concrete Institute to the people of the United States.”

The resolution also notes that “the ready mixed component alone of total concrete production in the United States in 2002 was enough to build a continuous road ten feet wide and four inches thick encircling the globe at the equator nearly 51 times.”

Additional Background: According to GuideStar, the American Concrete Institute received no government funds in 2001, the latest year for which data are available. For more information on the American Concrete Institute, visit this website: <http://www.aci-int.org/general/home.asp>

Committee Action: The resolution was referred to the Transportation and Infrastructure Committee on October 8, 2003, but was not considered.

Cost to Taxpayers: The resolution would authorize no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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H.Con.Res. 280—Recognizing the National Stone, Sand & Gravel Association for reaching its 100th Anniversary, and for the many vital contributions of its members to the Nation's economy and to improving the quality of life through the constantly expanding roles stone, sand, and gravel serve in the Nation's everyday life (Young of Alaska)

Order of Business: The resolution is scheduled to be considered on Tuesday, November 4th, under a motion to suspend the rules and pass the bill.

Summary: H.Con.Res. 280 would resolve that Congress:

- “acknowledges the achievements of the National Stone, Sand & Gravel Association and celebrates this 100th anniversary milestone;
- “recognizes the grand impact the National Stone, Sand & Gravel Association and its members have had on the business, social, and cultural landscape by helping create an unparalleled quality of life in the United States; and
- “congratulates the National Stone, Sand & Gravel Association for this achievement and challenges the association and its members to continue its tradition of excellence, increase research and development for the benefit of consumers, and to continue its vital advocacy in support of a strong transportation system for the Nation.”

The resolution also points out that “400 tons of aggregate is used on average per home and aggregate composes 80 percent of concrete and 94 percent of asphalt, making stone, sand, and gravel quarries essential members of communities as the product contributes to both the development and continued growth of neighborhoods.” Further, pulverized aggregates are used in the manufacture of such household items as paper, paint, plastics, roofing materials, cosmetics, pharmaceuticals, toothpaste, and cleansers.

Additional Background: The National Quarry Owners Association, the precursor of the National Stone, Sand & Gravel Association, was founded on May 19, 1903, and represents approximately 800 members with more than 10,000 operations across North America. The National Stone, Sand & Gravel Association, an international trade association, represents producers of construction aggregates--sand, gravel, and crushed stone.

According to GuideStar, the National Stone, Sand & Gravel Association receives no government funds.

Committee Action: The resolution was referred to the Committee on Transportation and Infrastructure on September 16, 2003, but was not considered.

Cost to Taxpayers: The resolution would authorize no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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H.R. 2620—Trafficking Victims Protection Reauthorization Act of 2003 (Smith of New Jersey)

Order of Business: The bill is scheduled for consideration on Tuesday, November 4, 2003, under a motion to suspend the rules and pass the bill. Because H.R. 2620 authorizes more than \$100 million in spending, it is required under Rule 28 of the Rules of the Republican Conference to receive a waiver in order to be scheduled for consideration under suspension of the rules. Under Rule 28, a waiver may be granted by a majority of the Elected Leadership (Speaker, Leader, Whip, Conference Chair, Policy Chair, Conference Vice-Chair, Conference Secretary, and the Chairman of the NRCC).

Summary: H.R. 2620 amends and reauthorizes for FY2004 and 2005 the Trafficking Victims Protection Act of 2000 (P.L. 106-386). The 2000 Act created several programs within the Departments of State, Labor, Justice, and Health and Human Services, and within other agencies to combat trafficking in persons. H.R. 2620 expands the current federal prohibitions against such trafficking and makes more victims of trafficking and their relatives eligible to enter and remain in the United States.

- **The bill creates a new grant program** for nongovernmental organizations (NGOs) at “key border crossings” to educate and monitor guards and officials and treat and identify trafficking victims. It also authorizes the President to carry out research on domestic and international trafficking in persons, including with grants to NGOs.
- **The bill creates a new program** to support production of television and radio programs (including documentaries) to increase awareness and inform vulnerable populations overseas of the dangers of trafficking.
- **The bill creates a new requirement** for airlines operating in the U.S. to develop and disseminate materials alerting travelers that sex tourism is illegal (see 18 USC 2423).
- The bill modifies current law to specify that anti-trafficking funds may be revoked if the recipients are shown to be involved in promoting trafficking.
- **The bill creates a new private right of action for civil suits** for victims of 1) forced labor (18 U.S.C. 1589), 2) trafficking with respect to peonage, slavery, involuntary servitude, or forced labor (18 U.S.C. 1590), and 3) sex trafficking of children or by force, fraud or coercion (18 U.S.C. 1591). Victims may bring the suits in district court and may be awarded actual damages, punitive damages, “reasonable attorney’s fees, and other litigation costs reasonable incurred.”
- H.R. 2620 adds a provision to current law allowing siblings of trafficked victims into the U.S. in addition to parents, and also adds new non-disclosure requirements

regarding visa applications for trafficking victims. The bill adds the trafficking statutes to current definitions of racketeering.

- H.R. 2620 elevates the director of the Office to Monitor and Combat Trafficking to the rank of Ambassador-at-Large, a presidential appointment with Senate confirmation.

The bill modifies the current definition regarding a country's efforts to thwart trafficking in persons, a definition countries must meet in order to avoid U.S. sanctions. It also creates new reporting requirements and creates a Senior Policy Operating Group to coordinating federal activities.

Limitation of Funds for Pro-Prostitution Activities and Groups:

The bill includes the following limitations:

- No funds “may be used to promote, support, or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to promote the purposes of this Act by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.”
- No funds “may be used to implement any program that targets victims of severe forms of trafficking in persons described in section 103(8)(A) of this Act through any organization that has not stated in either a grant application, a grant agreement, or both, that it does not promote, support, or advocate the legalization or practice of prostitution. The preceding sentence shall not apply to organizations that provide services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked.”

Committee Action: H.R. 2620 was introduced on June 26, 2003 and jointly referred to the International Relations Committee and the Judiciary Committee. The IR Committee reported the bill out by voice vote on July 23, 2003, and the Judiciary Committee amended the bill and, by voice vote, reported the bill to the full House on September 24, 2003.

Cost to Taxpayers: The bill authorizes appropriations of almost \$106 million a year in 2004 and 2005. CBO estimates that implementing the bill would cost \$197 million over the 2004-2008 period, subject to appropriations.

(Note: CBO estimated that the original authorization (P.L. 106-386) had a five year cost of \$89 million over the 2000-2005 period. **Thus, H.R. 2620 is an increase in authorization from approximately \$18 million per year to \$39 million per year.**)

H.R. 2620 would impose a private-sector mandate on airlines organized under the laws of the United States and other airlines that operate in the United States, but CBO expects this cost “would fall well below” the \$117 million UMRA threshold.

Does the Bill Create New Federal Programs or Rules?: Yes, the bill creates new grant programs, research programs, reporting requirements for trafficking in persons, and creates a new federal right of action for victims of trafficking and forced labor. The bill also modifies current law regarding trafficking programs and immigration proceedings.

Constitutional Authority: The International Relations Committee and the Judiciary Committee (in Report No. 108-264, Parts 1 and 2) find authority under Article I, Section 8, (Powers of Congress) but fail to cite a specific clause.

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H.R. 2898—E-911 Implementation Act (Shimkus)

Order of Business: The bill is scheduled for consideration on Tuesday, November 4th, under a motion to suspend the rules and pass the bill. Because H.R. 2898 authorizes more than \$100 million in spending, it is required under Rule 28 of the Rules of the Republican Conference to receive a waiver in order to be scheduled for consideration under suspension of the rules. Under Rule 28, a waiver may be granted by a majority of the Elected Leadership (Speaker, Leader, Whip, Conference Chair, Policy Chair, Conference Vice-Chair, Conference Secretary, and the Chairman of the NRCC).

Summary: Directs the Assistant Secretary of Commerce through the National Telecommunications and Information Agency (NTIA) and the Administrator of the National Highway Traffic Safety Administration to establish a joint program to coordinate between various parties regarding implementation of E-911 services and to create an E-911 Implementation Coordination Office. The new Office would, in consultation with the Secretary of Homeland Security and the Chairman of the FCC, make grants to state or local governments to cover up to 50% of the cost of implementing Phase II of E-911. Grantees must agree to certain 911 coordination requirements and that during the time in which they are applying for and receiving grants that they will not divert funds collected from designated E-911 charges (which are taxes imposed by state and local governments and appear on your cell-phone bill) to any purpose other than those for which the funds were collected.

The bill authorizes \$100 million a year in new funding for this program for Fiscal Years 2004 through 2008. The provisions authorizing the grants cease to be effective on October 1, 2008.

The bill also requires a report from the FCC on the activities taken by cell phone service providers to deploy Phase II of E-911.

Additional Background:

Basic 911 -- Basic 911 means that when the three-digit number is dialed, a call taker/dispatcher in the local public safety answering point (PSAP), or 911 call center, answers the call. The emergency and its location are communicated by voice (or TTY) between the caller and the call taker. *7% of the nation's PSAP's have only Basic 911 or no 911 at all.*

Enhanced 911 -- In areas serviced by enhanced 911, the call is selectively routed to the proper local 911 center for the caller's location, and the 911 center has equipment and database information that display the caller's phone number and address to the call taker. *93% of the nation's PSAP's have Enhanced 911 for callers from landlines.*

Phase I of E-911 -- Under Phase I of E-911, the call taker automatically receives the wireless call-back number. This is important in the event the wireless phone call is dropped, and may even allow PSAP employees to work with the wireless company to identify the wireless subscriber. Phase I also delivers the location of the cell tower handling the call. *Only 65% of the nation's PSAP's have even some Phase I of E-911 in place.*

Phase II of E-911 (Funded Under this Bill) -- Phase II of E-911 allows call takers to receive both the caller's wireless phone number and his location information. *Only 18% of the nation's PSAP's have some Phase II of E-911 in place. For information about the percent of counties in each state that have deployed Phase II visit:*

<http://198.30.105.186/Reports/report6.asp>. For information about counties visit:
<http://198.30.105.186/>

Past Congressional Action Declining to Fund Improvements to 911 Centers: In the 106th Congress legislation was enacted that (1) mandated that 911 be the universal emergency phone number – prior to the bill, some states used different numbers, (2) mandated that wireless phone carriers develop Phase I and Phase II capabilities, (3) directed the FCC to work with States to develop state-wide plans, and (4) provided liability protection for wireless companies with respect to these functions.

The bill enacted into law in the 106th Congress differed from the bill reported by the Energy and Commerce Committee in the 105th Congress (but never acted on by the full House) in many respects, including that the bill from the 106th Congress dropped a provision in the previous bill that provided funding for improvements at local call centers. In other words, in 1999, Congress declined to approve a federal funding mechanism to improve 911 centers, despite the fact that it had been previously suggested.

Potential Concerns: On October 23, the staff of the RSC circulated a list of possible concerns regarding the bill. The RSC staff heard from a few Members who shared these concerns.

- 1) Cost & Further Expansion of the Federal Government: The bill authorizes \$500 million in new spending for a new program over the next five years. While there is no guarantee that these funds will be appropriated, there will be tremendous pressure to fully fund this program in the interest of saving lives and enhancing homeland security. Ironically, while the federal government currently does not fund local 911 services (it is a state and local issue), after enactment of this bill, the federal government and Congress will have assumed some level of responsibility. Given that spending \$100 million a year will not likely result in the full deployment of Phase II, there will be pressure to spend even more than is authorized (in the name of homeland security). In fact, the companion Senate bill authorizes \$2.5 billion over the next five years – five times the House bill.

- 2) Rewarding States and Localities for NOT Spending Their Own Money on E-911: A number of states and localities have spent their own money or funds raised through special charges on cell phone users to implement Phase II. Four states have fully implemented Phase II deployments (Connecticut, Delaware, Rhode Island, and Vermont). In another seven states, more than 25% of the counties have implemented Phase II (Alabama, Florida, Indiana, Minnesota, North Carolina, Tennessee, and Virginia). States and localities that have acted on this issue and devoted the resources to deploy Phase II will not receive deployment assistance under this bill; states and localities that have not will. Proponents of the bill point out that some jurisdictions have diverted money specifically collected for E-911 to other purposes and that this legislation encourages them to stop this practice. Under the bill, however, states and localities only have to promise to stop diverting funds for the period during which they are applying for and receiving federal funds. After the grant has expired they can go back to diverting E-911 funds to other purposes. *For information about the percent of counties in each state that have deployed Phase II visit: <http://198.30.105.186/Reports/report6.asp>. For information about counties visit: <http://198.30.105.186/>.*
- 3) Rather than Creating a New Program, Could State and Localities be Permitted to Use Funding From Existing Programs for 911 Enhancements?: Since the federal government already funds multiple public safety programs that provide funds by both grant and formula to states and localities, states and localities could be authorized to use funds from these existing program for 911 enhancements.
- 4) Lack of Statutory Criteria for Disbursement of Funds Based on Need: With the exception of the 50% match requirement and the promise not to divert E-911 surcharges while receiving federal funds, any additional grant requirements and the criteria for selecting grantees is left to regulations to be promulgated by the Assistant Secretary at Commerce. For example will rich localities have equal claim to federal grants as poor localities? Marin County, CA (north of San Francisco) is one of the richest counties in America, yet they have not even begun deployment of Phase I. Loup County, Nebraska is one of the poorest counties in America and only has Basic 911. Since neither county has Phase II are both equally entitled to federal assistance? The bill is silent on this question, although language could be added to the bill prioritizing funding based on the economic situation of the applicants.

Committee Action: The bill was referred to the House Committee on Energy and Commerce and its Subcommittee on Telecommunications and the Internet. The bill was approved by voice vote by the Subcommittee on September 23, 2003, and by voice vote by the full Committee on October 1, 2003.

Cost to Taxpayers: Assuming appropriation of the authorized amounts for the grants and the estimated administration needs of the new E-911 Coordination Office, the Congressional Budget Office estimates that implementing the grant program in the House bill would cost \$45 million in 2004 and \$453 million over the 2004-2008 period.

Does the Bill Create New Federal Programs or Rules?: YES, the bill creates a new office within the federal government and a new grant program.

Staff Contact: Neil Bradley; x6-9717

H.Res. 300—Recognizing the outstanding contributions of the faculty, staff, students, and alumni of Christian colleges and universities (Hoekstra)

Order of Business: The resolution is scheduled for consideration on Tuesday, November 4th, under at motion to suspend the rules and pass the bill.

Summary: H.Res. 300 resolves that the House:

- 1) recognizes the university campuses affiliated with the Council for Christian Colleges & Universities, and other faith-based campuses; and
- (2) supports the goals and ideas of Christian Higher Education Month.

Additional Background: The Council for Christian Colleges & Universities recognizes the month of October as Christian Higher Education Month. According to the resolution, “the United States has benefited greatly from over 1,000 Christian colleges, beginning with the Nation's first Christian college in 1636” and “900 such campuses continue to self-identify themselves as religious institutions, adding to the rich diversity of higher education in the Nation.”

Committee Action: The resolution was referred to the Committee on Education and the Workforce on June 26, 2003, but was not considered.

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

Staff Contact: Lisa Bos, lisa.bos@mail.house.gov, (202) 226-1630

H.Con.Res. 94—Direct Support Professional Recognition Resolution (Sessions)

Order of Business: The resolution is scheduled for consideration on Tuesday, November 4th, under at motion to suspend the rules and pass the bill.

Summary: The resolution states that it is the sense of Congress that “the Federal Government and the States should make it a priority to ensure a stable, quality direct support workforce for individuals with mental retardation or other developmental disabilities that advances our Nation's commitment to community integration for such individuals and to personal security for them and their families.”

Additional Background: According to the resolution “direct support professionals provide a wide range of supportive services to individuals with mental retardation or other developmental disabilities on a day-to-day basis, including habilitation, health needs, personal care and hygiene, employment, transportation, recreation, and housekeeping and other home management-related supports and services so that these individuals can live and work in their communities.”

Committee Action: The resolution was referred to the Committee on Education and the Workforce on March 13, 2003, but was not considered.

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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H.Con.Res. 237—Honoring the late Rick Lupe, lead forestry technician for the Bureau of Indian Affairs Fort Apache Agency, for his dedication and service to the United States and for his essential service in fighting wildfires and protecting the environment and the communities of Arizona (Renzi)

Order of Business: The resolution is scheduled for consideration on Tuesday, November 4th, under at motion to suspend the rules and pass the bill.

Summary: H.Con.Res. 237 resolves that Congress “recognizes and honors the late Rick Lupe for his dedication and service to the United States, for his long and essential service in fighting wildfires and caring for the environment, and for ultimately sacrificing his life for the people of Arizona.”

Additional Background: According to the resolution, “Rick Lupe served as lead forestry technician for the Bureau of Indian Affairs Fort Apache Agency and was a long-time firefighter whose legendary intellect and skills made him a hero in 2002 when he saved the town of Show Low, Arizona, from the Rodeo-Chediski fire.” Rick Lupe died on Thursday, June 19, 2003, as a result of severe burns sustained in a prescribed fire conducted in May.

Committee Action: The resolution was referred to the Committee on Resources on June 26, 2003. The committee reported the bill to the full House by unanimous consent on October 29.

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

Staff Contact: Lisa Bos, lisa.bos@mail.house.gov, (202) 226-1630

H.R. 2766—Arapaho and Roosevelt National Forests Land Exchange Act of 2003 (Beauprez)

Order of Business: The bill is scheduled for consideration on Tuesday, November 4th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2766 authorizes the exchange of approximately 9.84 acres of the Arapaho and Roosevelt National Forests to the city of Golden, Colorado, in exchange for up to 135.9 acres of non-federal land (this land is either currently owned by the city or the city has the option to purchase it). The city of Golden is required to pay for any necessary land surveys and for the costs of land appraisals. If the land exchange does not take place for any reason, the Secretary of the Interior is authorized to sell the land to the city at its appraised value. If the appraised value of the non-federal land exceeds the value of the federal land, the values must be equalized by reducing the amount of non-federal land conveyed, cash payment, or a combination of the two.

The bill further states that it is the intent of Congress that the land exchange take place no later than 120 days after enactment of H.R. 2766. Pending completion of the land exchange, the city of Golden is authorized to construct a water pipeline through the federal land without further action or authorization by the Secretary of the Interior. The city must, however, hold the United States harmless from any liability or costs associated with the pipeline construction.

Additional Background: The city of Golden, Colorado wishes to construct a water pipeline to transfer domestic water supplies into storage. According to the Committee on Resources, the Forest Service land in the two forests is needed for this construction.

According to the General Services Administration, the U.S. government currently owns 34.9 percent of the land in Colorado.

Committee Action: The Committee on Resources favorably reported H.R. 2766 by unanimous consent on October 1, 2003.

Administration Position: On July 24, 2003, a representative of the Department of the Interior testified that “The Department does not object to H.R. 2766” provided recommended changes were made. The Committee did not make some of the changes recommended by the Administration.

Cost to Taxpayers: The Congressional Budget Office estimates that any impact of the bill on the federal budget will be insignificant.

Does the Bill Create New Federal Programs or Rules?: No, the bill authorizes a land exchange.

Constitutional Authority: The Committee on Resources, in House Report 108-329, cites Article I, Section 8, but does not cite a specific clause.

Staff Contact: Lisa Bos, lisa.bos@mail.house.gov, (202) 226-1630

S. 677—Canyon of the Gunnison Boundary Revision Act of 2003 (Sen. Campbell)

Order of Business: The bill is scheduled for consideration on Tuesday, November 4th, under a motion to suspend the rules and pass the bill.

Summary: S. 677 authorizes the Secretary of the Interior to add approximately 2,530 acres of privately owned land to the Black Canyon of the Gunnison National Park and 7,100 acres of privately owned land to the Gunnison Gorge National Conservation Area in Colorado. Two parcels of private land would be acquired through exchange of federal land. The third parcel would be acquired by purchase or donation.

S. 677 also directs the Secretary of the Interior to transfer grazing privileges when land under the bill that allows grazing is exchanged for private land.

Additional Background: The Black Canyon of the Gunnison was designated as a National Monument on March 2, 1933, and as a National Park in 1999 (Public Law 106-76). According to the Senate Committee on Energy and Natural Resources, the land exchange authorized under S. 677 “will better enable the National Park Service to protect additional lands near the canyon and allow for land exchanges with the owners of certain adjacent lands to improve the management of the park’s boundary.”

According to the General Services Administration, the U.S. government currently owns 34.9 percent of the land in Colorado.

Committee Action: S. 677 passed the Senate by unanimous consent on July 17 and was subsequently referred to the House Committee on Resources. The Committee favorably reported the bill by unanimous consent on October 29.

Administration Position: The Administration supports S. 677.

Cost to Taxpayers: The Congressional Budget Office estimates that S. 677 would not significantly impact the federal budget.

Does the Bill Create New Federal Programs or Rules?: No, the bill authorizes a land exchange.

Constitutional Authority: A committee report citing constitutional authority is not available.

Staff Contact: Lisa Bos, lisa.bos@mail.house.gov, (202) 226-1630

S. 924—To authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior (Sen. Murkowski)

Order of Business: The bill is scheduled for consideration on Tuesday, November 4th, under a motion to suspend the rules and pass the bill.

Summary: S. 924 directs the Secretary of the Interior to convey the surface and subsurface rights of 10,943 acres of federal land in Alaska to the Newtok Native Corporation if Newtok expresses its intent to enter into a land exchange within 180 days of the bill's enactment. In exchange, Newtok would convey the surface rights of 12,101 acres of land and relinquish its claim to 4,956 acres of other land it has selected under the Alaska Native Claims Settlement Act.

Additional Background: The Ninglick River near the village of Newtok, Alaska, has been eroding the bank of the river, threatening the airport, homes, and other buildings in Newtok. The land exchange under the bill would provide a new location within the Yukon Delta National Wildlife Refuge for the village of Newtok to be reestablished.

According to the General Services Administration, the U.S. government currently owns 67.7 percent of the land in Alaska.

Committee Action: S. 924 passed the Senate by unanimous consent on July 17 and was subsequently referred to the House Committee on Resources. The Committee favorably reported the bill by unanimous consent on October 29.

Administration Position: The Administration supports S. 924.

Cost to Taxpayers: According to the Congressional Budget Office, completing the proposed exchanged would cost less than \$500,000.

Does the Bill Create New Federal Programs or Rules?: No, the bill authorizes a land exchange.

Constitutional Authority: A committee report citing constitutional authority is not available.

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H.R. 506—Galisteo Basin Archaeological Sites Protection Act (*Udall*)

Order of Business: The bill is scheduled for consideration on Tuesday, November 4th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 506 designates 24 sites acres in the Galisteo Basin in New Mexico, totaling 4,591, as archaeological protection sites. The Secretary of the Interior is required to search for additional Native American and Spanish colonial sites in the Galisteo Basin area and to submit to Congress within three years recommendations (and beyond as needed) for additions to, deletions from, and modifications of the Galisteo Basin Archaeological Protection Sites. Only Congress may make any changes to the land included in the sites.

Additional provisions include:

- Authorizes the Secretary to acquire lands within the boundaries of the archaeological protection sites by donation, purchase, or by exchange, with the consent of the owner.
- Authorizes “such sums” as may be necessary to carry out the bill.
- States the Secretary shall have no authority to administer archaeological sites on non-Federal lands unless a cooperative agreement has been developed with the landowner.
- Requires the Secretary to submit a general management plan for the sites to Congress, developed in consultation with the governor of New Mexico, the New Mexico state land commissioner, affected Native American pueblos, and other interested parties.
- Authorizes the Secretary to enter into cooperative agreements with private landowners with an archaeological protection site on their property. The agreement would enable the Secretary to protect, preserve, and administer the resources and associated lands.
- Withdraws the sites on federal land from public lands laws, mining law, and mineral and geothermal laws, subject to valid existing rights.

Additional Background: The sites to be designated under the bill as Galisteo Basin Archaeological Protection Sites contain pueblo ruins, historic artifacts, and sites relating to the Spanish colonization of the area. The designation as archaeological protection sites would make the lands subject to federal laws that restrict the use of the land; prohibit digging, removing artifacts, damage and defacement of archaeological resources; and provide felony and/or misdemeanor prosecution with imprisonment up to ten years and fines up to \$100,000.

According to the General Services Administration, the U.S. government currently owns 34.1 percent of the land in New Mexico.

Committee Action: The Committee on Resources reported H.R. 506 on October 29, 2003, by unanimous consent. The Senate approved similar legislation on March 4 by unanimous consent.

Administration Position: The Administration supported similar legislation in the 107th Congress.

Cost to Taxpayers: The Congressional Budget Office estimates that H.R. 506 would cost less than \$500,000 annually.

Does the Bill Create New Federal Programs or Rules?: Yes, the bill designates new archaeological protection sites and makes rules regarding the administration and acquisition of the sites.

Constitutional Authority: A committee report citing constitutional authority is not available.

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H.R. 982—To clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa (*Faleomavaega*)

Order of Business: The bill is scheduled for consideration on Tuesday, November 4th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 982 would exempt the interest on all bonds or other obligations issued by or on behalf of the government of American Samoa from income taxation by any state or local government.

Additional Background: Bonds issued by almost all U.S. territories are currently exempt from federal, state and local taxes, except for American Samoa. H.R. 982 seeks to equalize the treatment of bond taxation among all territories.

A similar bill (H.R. 1448) was approved in the 107th Congress on September 24, 2002, by voice vote.

Committee Action: The Committee on Resources approved H.R. 982 by unanimous consent on September 25. The Committee on the Judiciary approved the bill by voice vote on May 7.

Cost to Taxpayers: The Congressional Budget Office estimates that the bill will have no impact on the federal government since the bill does not affect federal taxes. The bill does contain an unfunded mandate by preempting state and local tax law, but CBO estimates that it will fall below the threshold established in the Unfunded Mandates Reform Act (\$59 million in 2003).

Does the Bill Create New Federal Programs or Rules?: Yes, the bill preempts state and local tax law by exempting the interest on bonds of the government of American Samoa from state and local income tax.

Constitutional Authority: The Committee on the Judiciary, in House Report 108-102 Part 1, cites Article I, Section 8, but fails to cite a specific clause. The Committee on Resources, in House Report 108-102 Part 2, cites Article I, Section 8 and Article IV, Section 3 (Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States).

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